

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY E. MACK,
Petitioner,

v.

CONNIE GIPSON, Warden,
Respondent.

Case No. 14-cv-00008-JST (PR)

ORDER OF DISMISSAL

Petitioner, a state prisoner, filed this pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the \$5.00 filing fee. Petitioner filed a previous petition for writ of habeas corpus with this Court, challenging the same conviction and sentence. See Case No. C 90-3203 CAL (PR). The Court denied the first petition on the merits on May 24, 1994.

The Court finds the present petition is a second or successive petition attacking the same conviction and sentence as petitioner's prior federal habeas petition. A successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this Court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the United States Court of Appeals for the Ninth Circuit. Even if petitioner has new claims, he must still obtain the necessary authorization under Section 2244(b) from the United States Court of Appeals before he may proceed. The petition is accordingly DISMISSED without prejudice to refiling if petitioner obtains the necessary order.

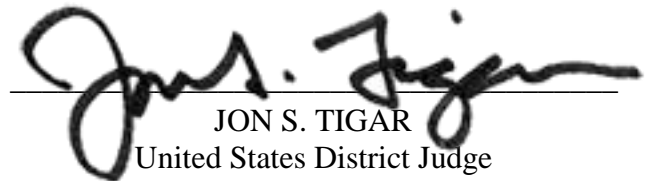
Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district court to rule on whether a petitioner is entitled to a certificate of appealability in the same order in which the petition is decided. Petitioner has failed to make a substantial showing that a reasonable jurist

1 would find this Court's denial of his claim on procedural grounds debatable or wrong. See Slack
2 v. McDaniel, 529 U.S. 473, 484 (2000). Consequently, no certificate of appealability is warranted
3 in this case.

4 The Clerk shall enter judgment and close the file.

5 **IT IS SO ORDERED.**

6 Dated: April 2, 2014

7 
8 JON S. TIGAR
United States District Judge

United States District Court
Northern District of California